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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary
Federal Communications Commission
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Washington, DC 20554

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May 10, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE

Re: EX PARTE PRESENTATION
CC Docket Nos. 98-147 and 96-98

EX PARTE OR LATE FILED

Dear Ms. Salas:

On May 9, 2001, Leon Kestenbaum, Norina Moy, Pete Sywenki and I, on behalf of Sprint Corporation and its operating subsidiaries, met with Dorothy Attwood, Glenn Reynolds, Brent Olson, and Chris Libertelli of the Common Carrier Bureau to discuss the collocation issues that are pending before the Commission on remand. Sprint's presentation is summarized in the attached outline, which was distributed to the staff in the meeting.

In addition to that presentation, Sprint wishes to take this opportunity to elaborate on its position regarding cross connects between requesting carriers that are collocated in an ILEC central office. In its October 12, 2000 comments in the above-captioned proceedings, Sprint pointed out that in the original *Local Competition Order*, 11 F.C.C. Rcd 15499 (1996) (subsequent history omitted), the Commission had required incumbent LECs to provide cross connect facilities between carriers collocated in their central offices, noted that this aspect of the *Local Competition Order* was never challenged in the courts, and argued that the simplest way to resolve this issue would be merely to revert to the *status quo ante* by reinstating the version of §5 1.323(h) adopted in that order. In ¶594 of that order, the Commission relied on §25 1 (c)(6) as a basis for requiring ILEC-supplied cross connects, an action that Sprint believes is fully justified by the statute (since each requesting carrier would be interconnecting with an ILEC facility).

Although the RBOCs would be nearly 5 years late in attempting to challenge a simple restoration of the *status quo ante* to the original §5 1.323(h), the Commission can also invoke its §201 (a) authority to reach the same result. That section requires carriers to furnish "interstate . . . communication service upon reasonable request therefor . . ."¹ The cross-connect facility in question is a dedicated circuit of the sort that ILECs provide today through tariffed special access services; it would simply be a very short, intra-building circuit. So long as at least 10% of the traffic flowing over this circuit is

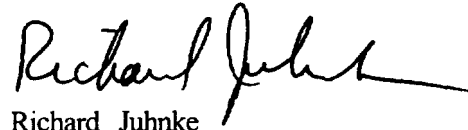
¹ The comments in these dockets of many competitive carriers requesting such cross-connect facilities clearly constitutes the "request" required by §201 (a).

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ultimately destined to a point in another state, it would be a jurisdictionally interstate facility — thus within the ambit of §201(a) — notwithstanding that the facility would also be used to carry local and other intrastate calls.²

This letter is being filed electronically in both of the above-referenced dockets.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Juhnke", with a long horizontal flourish extending to the right.

Richard Juhnke

Attachment

cc: Dorothy Attwood
Glenn Reynolds
Brent Olson
Chris Libertelli

² See *MTS and WATS Market Structure, et al.*, 4 FCC Rcd 5660 (1989).

SPRINT'S POSITION ON COLLOCATION REMAND ISSUES

EQUIPMENT

- CLECs need regulatory certainty to develop and execute sound business plans.
- Sprint advocates a pragmatic approach: Establish a "safe harbor" list and expedited dispute resolution procedures.
- It is easier to decide difficult issues only when they arise, and in a concrete context, than through *an a priori* definition.
- Sprint CLEC has not encountered resistance to equipment on its proposed safe harbor list (10/12/00 Comments at 8-9).
- Dispute resolution procedures should place the burden of persuasion on the appropriate party, protect the interests of non-litigants, and ensure prompt decisions and a direct path to judicial review.

CROSS-CONNECTS BETWEEN COLLOCATED CARRIERS

- Cross-connects between carriers collocated in ILEC COs are essential to the development of facilities-based alternatives to ILEC transport.
- The legality of CLEC-provided cross-connects was not squarely at issue in *GTE v. FCC*.
- ILECs hadn't objected in comments leading to First R&O.
- When confronted in court with an exhaustion argument, the ILECs replied that they raised this issue only for "emblematic" and "illustrative" purposes.
- The legality of requiring *ILEC-provided* cross-connects was totally absent from *GTE*.
- ILEC-provided cross-connects were required in the *Local Competition Order*, and this requirement was not challenged by the ILECs on appeal.
- Sprint ILEC does not believe CLEC-provided cross-connects are intrusive.
- But if the FCC believes it cannot adequately justify CLEC-provided cross-connects, it should simply restore the *status quo ante* and reinstate the prior rule (5 1.323(h)) requiring ILECs to supply cross-connects.

SPACE ASSIGNMENT POLICIES

- RBOC space assignment policies are having a negative impact on Sprint's ability to offer competitive and innovative broadband services.
- *GTE* merely held that the FCC had offered "no good reason" and "no good explanation" for its space assignment policies. Reasonable restrictions on ILECs *can* be justified and should be imposed.
 - ILEC choice of space cannot impose additional costs on CLEC.
 - ILEC choice of space cannot impair quality of service CLEC wishes to offer.
 - ILEC choice of space cannot reduce total space reserved for collocation.
 - Cost of physically separating ILEC space from CLEC space should be borne by ILECs.
- In *GTE*, this issue was briefed solely in the context of CO collocation.

- In the vast majority of remote terminals, space is so constrained that it is impossible to separate physically ILEC and CLEC equipment.
- Thus, where space for collocation does exist in RTs, ILECs should not be allowed to require physical separation (but should be allowed to impose reasonable security measures).

CLOSELY RELATED ISSUES THAT MERIT TOP PRIORITY

- CLECs need detailed technical information (10/12/00 Comments at 22-23), in advance of the pre-ordering process, to determine whether and where to collocate.
- The FCC should establish reasonable provisioning intervals for collocation, including intervals for augments and for providing interconnection trunks to the cage (10/12/00 Comments at 28-30).